



General Assembly

Substitute Bill No. 365

February Session, 2010

* ____SB00365GAE__032510__ *

**AN ACT CONCERNING THE POSTING OF PUBLIC AGENCY MINUTES
AND LEGAL NOTICES ON THE INTERNET WEB SITE OF A
MUNICIPALITY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-225 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The meetings of all public agencies, except executive sessions, as
4 defined in subdivision (6) of section 1-200, shall be open to the public.
5 The votes of each member of any such public agency upon any issue
6 before such public agency shall be reduced to writing and made
7 available for public inspection [within] not later than forty-eight hours
8 after such vote and shall also be recorded in the minutes of the session
9 at which taken. [Within] Not later than seven days [of] after the session
10 to which such minutes refer, such minutes shall be available for public
11 inspection. [and posted on such public agency's Internet web site, if
12 available.] Not later than fourteen days after the session to which such
13 minutes refer, such minutes shall be posted on such public agency's
14 Internet web site, if available, provided no municipal public agency
15 shall be deemed to be in violation of this chapter for failure to meet
16 this requirement (1) for the period beginning October 1, 2008, and
17 ending December 31, 2010, if such public agency files a notice with the
18 town clerk of the applicable municipality indicating the reason for
19 such failure, and (2) for the period beginning January 1, 2011, and

20 ending January 1, 2012, following a vote of the applicable legislative
21 body of such municipality, if such public agency files a notice with the
22 Freedom of Information Commission describing the hardship that
23 prevents such public agency from complying with such requirement.
24 For informational purposes only, a copy of any notice filed with a
25 town clerk pursuant to this subsection shall be filed with the
26 commission. Each [such] public agency shall make, keep and maintain
27 a record of the proceedings of its meetings.

28 (b) Each such public agency of the state shall file not later than
29 January thirty-first of each year in the office of the Secretary of the
30 State the schedule of the regular meetings of such public agency for the
31 ensuing year and shall post such schedule on such public agency's
32 Internet web site, if available, except that such requirements shall not
33 apply to the General Assembly, either house thereof or to any
34 committee thereof. Any other provision of the Freedom of Information
35 Act notwithstanding, the General Assembly at the commencement of
36 each regular session in the odd-numbered years, shall adopt, as part of
37 its joint rules, rules to provide notice to the public of its regular,
38 special, emergency or interim committee meetings. The chairperson or
39 secretary of any such public agency of any political subdivision of the
40 state shall file, not later than January thirty-first of each year, with the
41 clerk of such subdivision the schedule of regular meetings of such
42 public agency for the ensuing year, and no such meeting of any such
43 public agency shall be held sooner than thirty days after such schedule
44 has been filed. The chief executive officer of any multitown district or
45 agency shall file, not later than January thirty-first of each year, with
46 the clerk of each municipal member of such district or agency, the
47 schedule of regular meetings of such public agency for the ensuing
48 year, and no such meeting of any such public agency shall be held
49 sooner than thirty days after such schedule has been filed.

50 (c) The agenda of the regular meetings of every public agency,
51 except for the General Assembly, shall be available to the public and
52 shall be filed, not less than twenty-four hours before the meetings to
53 which they refer, (1) in such agency's regular office or place of

54 business, and (2) in the office of the Secretary of the State for any such
55 public agency of the state, in the office of the clerk of such subdivision
56 for any public agency of a political subdivision of the state or in the
57 office of the clerk of each municipal member of any multitown district
58 or agency. For any such public agency of the state, such agenda shall
59 be posted on the public agency's and the Secretary of the State's web
60 sites. Upon the affirmative vote of two-thirds of the members of a
61 public agency present and voting, any subsequent business not
62 included in such filed agendas may be considered and acted upon at
63 such meetings.

64 (d) Notice of each special meeting of every public agency, except for
65 the General Assembly, either house thereof or any committee thereof,
66 shall be posted not less than twenty-four hours before the meeting to
67 which such notice refers on the public agency's Internet web site, if
68 available, and given not less than twenty-four hours prior to the time
69 of such meeting by filing a notice of the time and place thereof in the
70 office of the Secretary of the State for any such public agency of the
71 state, in the office of the clerk of such subdivision for any public
72 agency of a political subdivision of the state and in the office of the
73 clerk of each municipal member for any multitown district or agency.
74 The secretary or clerk shall cause any notice received under this section
75 to be posted in his office. Such notice shall be given not less than
76 twenty-four hours prior to the time of the special meeting; provided, in
77 case of emergency, except for the General Assembly, either house
78 thereof or any committee thereof, any such special meeting may be
79 held without complying with the foregoing requirement for the filing
80 of notice but a copy of the minutes of every such emergency special
81 meeting adequately setting forth the nature of the emergency and the
82 proceedings occurring at such meeting shall be filed with the Secretary
83 of the State, the clerk of such political subdivision, or the clerk of each
84 municipal member of such multitown district or agency, as the case
85 may be, not later than seventy-two hours following the holding of such
86 meeting. The notice shall specify the time and place of the special
87 meeting and the business to be transacted. No other business shall be

88 considered at such meetings by such public agency. In addition, such
89 written notice shall be delivered to the usual place of abode of each
90 member of the public agency so that the same is received prior to such
91 special meeting. The requirement of delivery of such written notice
92 may be dispensed with as to any member who at or prior to the time
93 the meeting convenes files with the clerk or secretary of the public
94 agency a written waiver of delivery of such notice. Such waiver may be
95 given by telegram. The requirement of delivery of such written notice
96 may also be dispensed with as to any member who is actually present
97 at the meeting at the time it convenes. Nothing in this section shall be
98 construed to prohibit any agency from adopting more stringent notice
99 requirements.

100 (e) No member of the public shall be required, as a condition to
101 attendance at a meeting of any such body, to register the member's
102 name, or furnish other information, or complete a questionnaire or
103 otherwise fulfill any condition precedent to the member's attendance.

104 (f) A public agency may hold an executive session, as defined in
105 subdivision (6) of section 1-200, upon an affirmative vote of two-thirds
106 of the members of such body present and voting, taken at a public
107 meeting and stating the reasons for such executive session, as defined
108 in section 1-200.

109 (g) In determining the time within which or by when a notice,
110 agenda, record of votes or minutes of a special meeting or an
111 emergency special meeting are required to be filed under this section,
112 Saturdays, Sundays, legal holidays and any day on which the office of
113 the agency, the Secretary of the State or the clerk of the applicable
114 political subdivision or the clerk of each municipal member of any
115 multitown district or agency, as the case may be, is closed, shall be
116 excluded.

117 Sec. 2. Subsection (b) of section 1-206 of the general statutes is
118 repealed and the following is substituted in lieu thereof (*Effective from*
119 *passage*):

120 (b) (1) Any person denied the right to inspect or copy records under
121 section 1-210 or wrongfully denied the right to attend any meeting of a
122 public agency or denied any other right conferred by the Freedom of
123 Information Act may appeal therefrom to the Freedom of Information
124 Commission, by filing a notice of appeal with said commission. A
125 notice of appeal shall be filed not later than thirty days after such
126 denial, except in the case of an unnoticed or secret meeting, in which
127 case the appeal shall be filed not later than thirty days after the person
128 filing the appeal receives notice in fact that such meeting was held. For
129 purposes of this subsection, such notice of appeal shall be deemed to
130 be filed on the date it is received by said commission or on the date it is
131 postmarked, if received more than thirty days after the date of the
132 denial from which such appeal is taken. Upon receipt of such notice,
133 the commission shall serve upon all parties, by certified or registered
134 mail, a copy of such notice together with any other notice or order of
135 such commission. In the case of the denial of a request to inspect or
136 copy records contained in a public employee's personnel or medical
137 file or similar file under subsection (c) of section 1-214, the commission
138 shall include with its notice or order an order requiring the public
139 agency to notify any employee whose records are the subject of an
140 appeal, and the employee's collective bargaining representative, if any,
141 of the commission's proceedings and, if any such employee or
142 collective bargaining representative has filed an objection under said
143 subsection (c), the agency shall provide the required notice to such
144 employee and collective bargaining representative by certified mail,
145 return receipt requested or by hand delivery with a signed receipt. A
146 public employee whose personnel or medical file or similar file is the
147 subject of an appeal under this subsection may intervene as a party in
148 the proceedings on the matter before the commission. [Said] Except as
149 provided in subdivision (5) of this subsection, the commission shall,
150 after due notice to the parties, hear and decide the appeal [within] not
151 later than one year after the filing of the notice of appeal. The
152 commission shall adopt regulations in accordance with chapter 54,
153 establishing criteria for those appeals which shall be privileged in their
154 assignment for hearing. Any such appeal shall be heard not later than

thirty days after receipt of a notice of appeal and decided not later than sixty days after the hearing. If a notice of appeal concerns an announced agency decision to meet in executive session or an ongoing agency practice of meeting in executive sessions, for a stated purpose, the commission or a member or members of the commission designated by its chairperson shall serve notice upon the parties in accordance with this section and hold a preliminary hearing on the appeal not later than seventy-two hours after receipt of the notice, provided such notice shall be given to the parties at least forty-eight hours prior to such hearing. During such preliminary hearing, the commission shall take evidence and receive testimony from the parties. If after the preliminary hearing the commission finds probable cause to believe that the agency decision or practice is in violation of sections 1-200 and 1-225, as amended by this act, the agency shall not meet in executive session for such purpose until the commission decides the appeal. If probable cause is found by the commission, it shall conduct a final hearing on the appeal and render its decision not later than five days after the completion of the preliminary hearing. Such decision shall specify the commission's findings of fact and conclusions of law.

(2) In any appeal to the Freedom of Information Commission under subdivision (1) of this subsection or subsection (c) of this section, the commission may confirm the action of the agency or order the agency to provide relief that the commission, in its discretion, believes appropriate to rectify the denial of any right conferred by the Freedom of Information Act. The commission may declare null and void any action taken at any meeting which a person was denied the right to attend and may require the production or copying of any public record. In addition, upon the finding that a denial of any right created by the Freedom of Information Act was without reasonable grounds and after the custodian or other official directly responsible for the denial has been given an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive, the commission may, in its discretion, impose against the custodian or other official a civil penalty of not less than twenty dollars nor more

189 than one thousand dollars. If the commission finds that a person has
190 taken an appeal under this subsection frivolously, without reasonable
191 grounds and solely for the purpose of harassing the agency from
192 which the appeal has been taken, after such person has been given an
193 opportunity to be heard at a hearing conducted in accordance with
194 sections 4-176e to 4-184, inclusive, the commission may, in its
195 discretion, impose against that person a civil penalty of not less than
196 twenty dollars nor more than one thousand dollars. The commission
197 shall notify a person of a penalty levied against him pursuant to this
198 subsection by written notice sent by certified or registered mail. If a
199 person fails to pay the penalty within thirty days of receiving such
200 notice, the superior court for the judicial district of Hartford shall, on
201 application of the commission, issue an order requiring the person to
202 pay the penalty imposed. If the executive director of the commission
203 has reason to believe an appeal under subdivision (1) of this subsection
204 or subsection (c) of this section (A) presents a claim beyond the
205 commission's jurisdiction; (B) would perpetrate an injustice; or (C)
206 would constitute an abuse of the commission's administrative process,
207 the executive director shall not schedule the appeal for hearing
208 without first seeking and obtaining leave of the commission. The
209 commission shall provide due notice to the parties and review
210 affidavits and written argument that the parties may submit and grant
211 or deny such leave summarily at its next regular meeting. The
212 commission shall grant such leave unless it finds that the appeal: (i)
213 Does not present a claim within the commission's jurisdiction; (ii)
214 would perpetrate an injustice; or (iii) would constitute an abuse of the
215 commission's administrative process. Any party aggrieved by the
216 commission's denial of such leave may apply to the superior court for
217 the judicial district of Hartford, within fifteen days of the commission
218 meeting at which such leave was denied, for an order requiring the
219 commission to hear such appeal.

220 (3) In making the findings and determination under subdivision (2)
221 of this subsection the commission shall consider the nature of any
222 injustice or abuse of administrative process, including but not limited

223 to: (A) The nature, content, language or subject matter of the request or
224 the appeal; (B) the nature, content, language or subject matter of prior
225 or contemporaneous requests or appeals by the person making the
226 request or taking the appeal; and (C) the nature, content, language or
227 subject matter of other verbal and written communications to any
228 agency or any official of any agency from the person making the
229 request or taking the appeal.

230 (4) Notwithstanding any provision of this subsection to the
231 contrary, in the case of an appeal to the commission of a denial by a
232 public agency, the commission may, upon motion of such agency,
233 confirm the action of the agency and dismiss the appeal without a
234 hearing if it finds, after examining the notice of appeal and construing
235 all allegations most favorably to the appellant, that (A) the agency has
236 not violated the Freedom of Information Act, or (B) the agency has
237 committed a technical violation of the Freedom of Information Act that
238 constitutes a harmless error that does not infringe the appellant's rights
239 under said act.

240 (5) In the case of an appeal to the commission concerning a failure of
241 a public agency to post minutes of a meeting on a public agency's
242 Internet web site in accordance with subsection (a) of section 1-225, as
243 amended by this act, the commission may dismiss the appeal without
244 a hearing if it finds, after examining the notice of appeal and
245 construing all allegations most favorably to the appellant, that the
246 agency has complied with the provisions concerning the filing of
247 notice in accordance with subdivision (1) or (2) of subsection (a) of
248 section 1-225, as amended by this act.

249 Sec. 3. Section 1-2 of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective October 1, 2010*):

251 (a) Each provision of the general statutes, the special acts or the
252 charter of any town, city or borough which requires the insertion of an
253 advertisement of a legal notice in a daily newspaper shall be construed
254 to permit such advertisement to be inserted in a weekly newspaper or

255 on an Internet web site in accordance with subsection (b) of this
 256 section; but this section shall not be construed to reduce or otherwise
 257 affect the time required by law for giving such notice. Whenever notice
 258 of any action or other proceeding is required to be given by
 259 publication in a newspaper, either by statute or order of court, the
 260 newspaper selected for that purpose, unless otherwise expressly
 261 prescribed, shall be one having a substantial circulation in the town in
 262 which at least one of the parties, for whose benefit such notice is given,
 263 resides.

264 (b) Notwithstanding any provision of the general statutes, any
 265 town, city or borough may post any advertisement of a legal notice
 266 described in subsection (a) of this section concerning the procurement
 267 of goods or services, including, but not limited to, requests for
 268 proposals and bid solicitations, in a conspicuous place on such town's,
 269 city's or borough's Internet web site in lieu of insertion of such
 270 advertisement in a daily or weekly newspaper.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	1-225
Sec. 2	<i>from passage</i>	1-206(b)
Sec. 3	<i>October 1, 2010</i>	1-2

GAE *Joint Favorable Subst.*